

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TERRANCE GRISSOM,

Plaintiff,

v.

ORDER

MICHAEL DITTMANN, LUCAS WEBER,
and LINDSAY WALKER,

15-cv-705-jdp

Defendants.

Plaintiff Terrance Grissom, a prisoner at the Columbia Correctional Institution, brings this lawsuit alleging that prison officials are threatening to harm him. Grissom is a frequent litigator in this court (he has brought over 60 cases here since 1990) who has “struck out” under 28 U.S.C. § 1915(g) and who independently has been barred from filing new complaints in this court unless his allegations show that he is in imminent danger of serious physical injury. *See Grissom v. Kuluike*, No. 14-cv-590-jdp (W.D. Wis. Jan. 12, 2015).

Plaintiff’s allegations that prison officials are threatening to harm or kill him are sufficient to pass the imminent danger standard, but there are other problems with this lawsuit that must be addressed before I screen the complaint.

First, because plaintiff has not submitted the filing fee for this lawsuit, I take him to be seeking leave to proceed *in forma pauperis* in this case. But plaintiff has not submitted financial information that I can use to determine whether he qualifies financially for *in forma pauperis* status. I will give him a short time to submit his trust fund account statement for the period between May 2, 2015, and November 2, 2015.

Second, the document that plaintiff has submitted as a complaint does not comply with Federal Rule of Procedure 10(a), which states that the complaint must have a caption

detailing the names of the parties. As it stands now, I could only guess which prison officials plaintiff seeks to name as a defendants; he will have to submit an amended complaint in which he names the individuals he is suing. I will direct the clerk of court to provide plaintiff with a blank complaint form that he should use for his amended complaint. When plaintiff fills out the new complaint, he should make sure that he names each individual he wants to sue in the caption, and then explain in the body of the complaint what each defendant did to violate his rights.

One of the hallmarks of plaintiff's recent litigation in this court is that he files complaints and then does not respond to court orders or otherwise do anything to prosecute his lawsuits. *See, e.g., Grissom v. Pollard*, No. 14-cv-808-jdp (W.D. Wis.) (plaintiff dismissed from case after failing to submit initial partial payment of filing fee); *Grissom v. Luduigson*, No. 14-cv-758-jdp (W.D. Wis.) (case dismissed after plaintiff failed to submit initial partial payment of filing fee); *Grissom v. Vandenlangenberg*, No. 14-cv-490-jdp (W.D. Wis.) (same). If plaintiff fails to respond to this order, this case will be dismissed.

ORDER

IT IS ORDERED that:

1. Plaintiff Terrance Grissom may have until July 15, 2016, to submit an amended complaint and a prison trust fund account statement.
2. The clerk of court is directed to provide plaintiff with a blank complaint form.

Entered June 27, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge

Guide to Filing Prisoner Complaints Without a Lawyer In Federal District Court

Introduction

Welcome to the federal district courts.

This Guide is intended to help you write and file a complaint. Follow these steps and your litigation should run more smoothly.

The Guide comes with two attachments:

Attachment 1 is a blank form for your complaint and an optional blank application to proceed in court without prepaying the filing fee. You are encouraged to use the form complaint. You are not required to do so, but using it will help your case move more quickly.

Attachment 2 contains examples of claims. These illustrations may help you write your own claim.

Before you begin, consider whether your case belongs in federal court.

- Federal district courts generally hear two types of cases: (1) violations of federal law; and (2) violations of state law where the parties are citizens of different states and the amount at stake is more than \$75,000.
- Federal district courts do not review the decisions of state courts. Do not sue in a federal district court just because you are unhappy with the ruling of a state court.

Contents of Your Complaint

Cases in federal court start with the complaint, and so does this guide. The complaint is an important legal document. If you draft it correctly, it will be short and will tell the court and the defendants exactly how you believe that your rights were violated.

What to put in your complaint:

Your complaint needs five things. These five parts correspond to the five sections that you see in the form complaint in Attachment 1.

- A. **Caption and parties.** Your complaint must begin with a “caption.” The caption must include your name as the plaintiff and the names of the people you are suing (the defendants). (If the defendants harmed you while doing their jobs, tell the court the name and address of the employers, if known to you.) Also, name the federal court in which you will be filing your complaint. Do not fill in the case number. This will be done by the clerk when you file your complaint. From then on, you should put the case number on papers that you file with the court. This helps the court keep all the papers in each case together.
- B. **Statement of Claim.** The most important part of your complaint is the “statement of your claim.” Describe *briefly* the exact problem that you are complaining about. You should explain five things:
- (1) **Who** violated your rights. Tell the name of each person who injured you.
 - (2) **What** each defendant did. Tell what action each defendant took or failed to take that harmed you.
 - (3) **When** they did it. Tell when each defendant harmed you.
 - (4) **Where they did it.** Tell where each defendant harmed you.
 - (5) **Why they did it.** If you know, tell the court why each defendant harmed you.

Explain the “who,” “what,” “when,” “where,” and “why” clearly and simply. Tell the story as if you are telling it to someone who knows nothing about what happened to you, but put only the important facts in your statement of the claim.

A short and plain statement helps the judge to review your complaint quickly and move onto the next step of your case. A long complaint will take a judge longer to review and understand, and the judge may tell you to rewrite it. This will delay your case.

You may find it helpful to look at the examples of statements of a claim in Attachment 2. Do not copy these examples or assume that the plaintiffs in these examples would win their cases. The examples show you how to write your claim, not what to say in your claim.

You may type or handwrite your complaint, so long as it’s readable.

If you cannot finish your statement in the complaint form, you may continue your statement of the claim on another sheet of paper.

C. **Why your case belongs in federal court (“Jurisdiction”).** State why a federal court can decide your case. There are two main possibilities.

(1) If your case involves a violation of federal law, a federal court can decide your case, and you should check the first box on the form. This box refers to a federal statute, 28 U.S.C. § 1331, the law that gives federal courts the power to decide cases involving the violation of federal law.

(2) If your case involves only a violation of state law, you may be able to check the second box. Generally, in order to check the second box, all the defendants must be citizens of a state other than the one of which you (and any other plaintiffs) are a citizen. In addition, more than \$75,000 must be in dispute.

- D. **Relief Wanted.** Your complaint should include a request for relief—what you want from each defendant, such as money or some particular action.
- E. **Jury Demand.** If you want to have your case decided by a jury, check “Yes” in the box provided. If you want the judge to decide it, check the other box.

What NOT to put in your complaint

DO NOT attach a lot of papers or long statements from witnesses. **If you want the judge to know about a fact, just write the fact in your complaint. The complaint is not the place for *proving* facts. When the judge needs proof, you will have a chance to submit it later.**

DO NOT include in your complaint lengthy quotations from statutes, laws, regulations, or cases. If you want, you may simply list the statute, law, or regulation that you believe the defendants violated. Later in the case, the defendants or the judge may ask you to explain in more detail why you think that the defendants have violated a law. You will then have an opportunity to quote from statutes, laws, regulations, or cases.

DO NOT include in your complaint unrelated claims against different defendants. You may bring the same claim against more than one defendant only if all of the named defendants played some part in the *same* situation that resulted in the alleged violation of your rights.

Note on the use of the prison’s grievance system:

Prisoners are generally required to submit their claims to the prison’s grievance system before filing a federal suit about those claims. If you do not complete the prison’s entire grievance process before filing suit, the defendants may ask the court to dismiss your case and the court may do so.

Filing Your Complaint

To file your complaint, you must pay a filing fee. Ask the prison librarian or call the clerk of court's office to find out the current fee. (Contact details are listed below; no collect calls, though.) Send a check or money order in this amount, payable to "The Clerk of the U.S. District Court."

If you cannot afford the fee, you may ask the court for permission to file without prepaying the full fee. Use the form "Request to Proceed in District Court without Prepaying the Filing Fee" that is part of Attachment 1. You must also submit a certified copy of your prisoner trust account fund for the 6-month period before your filing. You should ask for this report from the jail or prison in which you are housed. Note that if you have already filed three suits that a court has dismissed, you may have lost your right to proceed without paying the full filing fee in advance.

BE SURE to keep for yourself an exact copy of your complaint and any other document you send to the court.

DO NOT mail a copy of your complaint directly to any defendant.

Mail (1) your complaint and (2) your check or money order (if you can afford to prepay the full filing fee) or your Request to Proceed in District Court without Prepaying the Filing Fee to: "Clerk of the U.S. District Court" at the appropriate address. Consult the attached map for help.

Northern District of Illinois

Chicago

Everett McKinley Dirksen U.S.Courthouse
219 South Dearborn Street
Chicago, IL 60604
(312) 435-5670

Rockford

Stanley J. Roszkowski U.S.Courthouse
327 South Church Street
Rockford, Illinois 61101
(815) 987-4354

Central District of Illinois

Peoria

309 U.S. Courthouse
100 N.E. Monroe Street
Peoria, IL 61602
309-671-7117

Urbana

218 U.S. Courthouse
201 S. Vine Street
Urbana, IL 61802
217-373-5830

Southern District of Illinois

Benton

301 West Main Street
Benton, IL 62812
(618) 439-7760

East St. Louis

750 Missouri Avenue
East St. Louis, IL 62201
(618) 482-9371

Northern District of Indiana

Fort Wayne

1300 S. Harrison St.
Fort Wayne, IN 46802
(260) 423-3000

Hammond

5400 Federal Plaza
Hammond, IN 46320
(219) 852-6500

Lafayette

Charles Halleck Federal Building
230 North Fourth Street
Lafayette, IN 47901
(765) 420-6250

South Bend

102 Federal Building
204 S Main St
South Bend, IN 46601
(574) 246-8000

Southern District of Indiana

Indianapolis

Birch Bayh Federal Bldg & U.S. Courthouse
46 East Ohio Street
Indianapolis, IN 46204
(317) 229-3700

Evansville

Winfield K. Denton Federal Building & U.S. Courthouse
101 Northwest Martin Luther King Boulevard
Evansville, IN 47708
(812) 434-6410

Terre Haute

U.S. Courthouse
921 Ohio Street
Terre Haute, IN 47807
(812) 231-1840

New Albany

Lee H. Hamilton Federal Building & U.S. Courthouse
121 West Spring Street
New Albany, IN 47150
(812) 542-4510

Eastern District of Wisconsin

Milwaukee

362 United States Courthouse
517 East Wisconsin Avenue
Milwaukee, WI 53202
(414) 297-3372

Green Bay

Jefferson Court Building
125 S. Jefferson St., Rm. 102
Green Bay, WI 54301-4541
(920) 884-3720

Western District of Wisconsin

Robert W. Kastenmeier U.S. Courthouse
120 N. Henry Street, Room 320
Madison, WI 53703
(608) 264-5156

ILLINOIS
7th Circuit



WISCONSIN
7th Circuit



ATTACHMENT 1

COMPLAINT FORM

(for filers who are prisoners without lawyers)

IN THE UNITED STATES DISTRICT COURT

FOR THE _____ DISTRICT OF _____

(Full name of plaintiff(s))

vs

Case Number:

(Full name of defendant(s))

(to be supplied by clerk of court)

A. PARTIES

1. Plaintiff is a citizen of _____, and is located at
(State)

(Address of prison or jail)

(If more than one plaintiff is filing, use another piece of paper).

2. Defendant _____
(Name)

is (if a person or private corporation) a citizen of _____
(State, if known)

and (if a person) resides at _____
(Address, if known)

and (if the defendant harmed you while doing the defendant's job)

worked for _____
(Employer's name and address, if known)

(If you need to list more defendants, use another piece of paper.)

B. STATEMENT OF CLAIM

On the space provided on the following pages, tell:

1. Who violated your rights;
2. What each defendant did;
3. When they did it;
4. Where it happened; and
5. Why they did it, if you know.

[illegible]

C. JURISDICTION

☐ I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR

☐ I am suing under state law. The state citizenship of the plaintiff(s) is (are) different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$_____.

D. RELIEF WANTED

Describe what you want the court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or stop doing something.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

E. JURY DEMAND

☐ Jury Demand - I want a jury to hear my case
OR

☐ Court Trial – I want a judge to hear my case

Dated this _____ day of _____ 20____.

Respectfully Submitted,

Signature of Plaintiff

Plaintiff's Prisoner ID Number

(Mailing Address of Plaintiff)

(If more than one plaintiff, use another piece of paper).

REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FILING FEE

☐ I **DO** request that I be allowed to file this complaint without paying the filing fee. I have completed a request to proceed in the district court without prepaying the fee and attached it to the complaint.

☐ I **DO NOT** request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.

UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____

Full name of plaintiff(s)

v.

Case No. _____
(Provided by the clerk of court)

Full name of defendant(s)

PRISONER REQUEST TO PROCEED IN DISTRICT COURT
WITHOUT PREPAYING THE FULL FILING FEE

Answer the following questions to the best of your ability.

Note: If you do not tell the truth, the court may dismiss your lawsuit.

I. Personal Information

1) Your name: _____

(a) State the place of your incarceration and provide your prisoner identification number:

(place) (number)

(b) Are you employed at the institution? ☐ Yes ☐ No

(c) Do you receive any payment from the institution? ☐ Yes ☐ No

Attach a printout of your prison trust account statement showing transactions for the six-month period immediately preceding the filing of this request and showing the current balance of your account.

2) Do you have any dependents that you are responsible for supporting?

☐ Yes ☐ No

If "yes," list them below.

<u>Name or initials (for minor children only)</u>	<u>Relationship to You</u>	<u>Age</u>	<u>Amount of Support Provided per Month</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

II. Property or Assets: - If you are married, your answers must *include your spouse's property*.

1) Do you own a car?

☐ Yes ☐ No

If "yes," list the car(s) below:

<u>Make and Model</u>	<u>Year</u>	<u>Approximate Current Value</u>
_____	_____	\$ _____
_____	_____	\$ _____

2) Do you own your home(s)? ☐ Yes ☐ No

If "Yes," state the approximate value(s). \$ _____

What is the amount of equity (assessed value of residence minus outstanding mortgage balance) in the home(s)? \$ _____

3) Do you have any cash or checking, savings, or other similar accounts?

☐ Yes ☐ No

If "Yes," state the total of such sums. \$ _____

- 4) Do you own any other property of value, such as real estate, stocks, bonds, trusts, or individual retirement accounts (e.g., IRA, 401 k), artwork, or jewelry?

☐ Yes ☐ No

If "Yes," describe the property and the approximate value(s).

III. Litigation History

For each federal lawsuit that you recall having filed, list as much of the following information that you remember about each case: The name of the case (that is, the plaintiffs and the defendants), the case number or year of filing, and the federal district in which you filed the case. Use more paper if needed.

Case Name (Plaintiffs and defendants)	Case number (or year of filing)	Federal district
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

IV. **Other Circumstances** - Describe any other financial circumstance(s) that you would like the court to consider when reviewing this petition.

I, _____, declare that I am the plaintiff bringing this complaint. I declare that I am unable to prepay the full filing fee and that I am entitled to the relief sought in the complaint.

Date

Signature - Signed Under Penalty of Perjury

ATTACHMENT 2

Statement of Claim (Example 1)

The plaintiff Peter Jackson is an inmate at *Stateville Correction Center in*

Joliet, Illinois. During lunch on *July 15, 2013*, an inmate threatened to stab

Jackson. Jackson reported the threat to two guards, *Tom Perez and John*

What happened

White, but they ignored the threat because they wanted to retaliate against Jackson

for filing an earlier grievance. The next day, *the inmate stabbed Jackson in the*

neck, causing profuse bleeding. Jackson went to the infirmary, where

Who 3

doctor *Timothy Jones* told him that stab wounds, if untreated, would likely

get infected. Yet the *Dr. Jones deliberately refused to treat Jackson, ignoring*

Why it happened

the risk of infection *for no reason*. Jackson seeks damages from the

Gonzalez and White for ignoring the threat of injury and from the doctor

for refusing to treat him.

Where

When

Who 1 and 2

Why it happened

What else happened

What else happened

Statement of Claim (Example 2)

Plaintiff Luther Jackson is an inmate at *Stateville Correction Center in Joliet*

Where

Illinois. He suffers from asthma. Two guards, *Hector Gonzalez and Bradley*

Who 1 and 2

White, knew that he is asthmatic. On *January 15, 2014*, they put him in a cell

When

What happened

with a broken window. The open window cooled the cell down to 20 degrees

Why it happened

Fahrenheit. *Unconcerned with his well-being*, the guards knew that by putting

What else happened

him in a cell with freezing-cold air healthy breathing would be difficult for

What else happened

Jackson. The two guards also knew that *the cell had no running water*, further

increasing the risk of infection. Because of these circumstances, Jackson

What else happened

contracted *pneumonia and was hospitalized* for two weeks for which he seeks

damages.

Statement of Claim (Example 3)

Plaintiff Manny Jackson is an inmate at the *Wisconsin Secure Program*

Where

Facility in Boscobel, Wisconsin. He possessed two items, a newspaper article

When

and diary, both of which criticize the warden. On *August 10, 2013*, two

Who 1 and 2

What happened

guards, *Hector Gonzalez and Bradley White*, took *these items* from his cell and

What else happened

charged him with violating a rule of the Wisconsin Department of

Corrections that prohibits inmate "insubordination." The Department's

Who 3

Why it happened

Secretary, *Ed Smith*, requires that guards enforce this rule. A prison

disciplinary board found Jackson guilty of insubordination because he

What else happened

possessed these two items. It punished him with *three weeks' segregation*.

Who 4

Two months later, *Warden Timothy Jones* approved the board's discipline

What else happened

and *authorized the segregation*.

Jackson wants the guilty finding and punishment overturned, his items

returned to him, damages for the time that he spent in segregation, and a

ruling that prohibits the Department from banning written criticisms of the

warden.

Statement of Claim (Example 4)

Where

The plaintiff Guy Johnson is an inmate at *Stateville Correction Center in Joliet,*

Illinois. As he was working at his regular job in the prison library on

When

Who

February 18, 2014, Brian Whelan, a prison guard, approached him and

What happened

accused him of stealing a prison book. When Johnson denied the accusation,

What else happened

Whelan put Johnson into a choke-hold, kicked him in the groin several times,

and shoved him into a table where he cut his head and lost consciousness

Why it happened

Whelan said he did this because Johnson was disrespecting a prison guard

Johnson seeks damages from Whelan for the use of unnecessary and

excessive force and compensation for his injuries.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

Full name of plaintiff(s) or petitioner(s)

Case No. _____
(Provided by the clerk of court)

v.

Full name of defendant(s) or respondent(s)

**PETITION AND AFFIDAVIT TO PROCEED
WITHOUT PREPAYMENT OF FEES AND/OR COSTS**

I, _____, declare that I am the plaintiff or petitioner in the above-named action. In support of my request to proceed in forma pauperis, I declare that I am unable to pay the fees and/or costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion. I answer the following questions truthfully and under penalty of perjury (additional pages may be added, if necessary, to provide complete information):

I. Personal Information

1) Are you currently incarcerated? Yes No

If "No," go to question 2. Complete all sections.

If "Yes," answer questions (a), (b) & (c), skip to Section IV. Complete sections IV and V.

(a) State the place of your incarceration and provide your prisoner identification number:

(place)

(number)

(b) Are you employed at the institution? Yes No

(c) Do you receive any payment from the institution? Yes No

If you are a prisoner, attach a printout of your prison trust account statement showing transactions for the six-month period immediately preceding the filing of your complaint, motion, or petition and showing the balance of your release account. Prisoners who are permitted to file in forma pauperis must pay the full filing fee in installments.

(WIWD 12/07)

Personal Information - continued

- 2) Are you employed? Yes No
- 3) Are you currently married? Yes No
If "Yes," is your spouse employed? Yes No
- 4) Do you have any legal dependents (children/adults) whom you are responsible for supporting?
Yes No

If "Yes," list them below:

<u>First and Last Initials (For Minor Children Only) or Name</u>	<u>Relationship to You</u>	<u>Age</u>	<u>Amount of Support Provided Per Month</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

II. Income - If you are married, your answers ***must include your spouse's income.***

(When calculating income, you must include any salary, child support, public assistance, unemployment compensation, disability payments, life insurance payments, pensions, annuities, workers' compensation, stock dividends and interest, gifts, and inheritance, or other incoming monies.)

State your total *monthly* income? \$ _____

Provide the name of your employer(s): _____

State your spouse's total *monthly* income? \$ _____

State the amount of money you have received from any other source in the last twelve months (e.g., rent payments, pension or insurance payments, gifts, inheritance, disability or workers' compensation payments). Please attach an additional sheet if necessary.

<u>Source of income</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____

III. Expenses - If you are married and/or have dependents, ***your expenses should also include your household's expenses.***

(When calculating household expenses, you may include groceries, clothing, medical costs, utilities which are not included in your rental payments, transportation, and insurance.)

1) Identify the following amounts that you pay per month:

Rent or Mortgage \$ _____

Car payment(s) \$ _____

Alimony and/or court-ordered child support \$ _____

Credit card payment(s) \$ _____

2) Do you have any other monthly expenses that you have not already identified?

Yes No

If "Yes," list them below:

<u>Expense</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

3) What is the total amount of your monthly expenses? \$ _____

IV. Property - If you are married, your answers must ***include your spouse's property.***

1) Do you own a car? Yes No If "Yes," list car(s) below:

<u>Make and Model</u>	<u>Year</u>	<u>Approximate Current Value</u>
_____	_____	\$ _____
_____	_____	\$ _____

2) Do you own your residence(s)? Yes No

If "Yes," state the approximate value(s). \$ _____

What is the amount of equity (assessed value of residence minus outstanding mortgage balance) in the residence(s)? \$ _____

